

**CITY OF SANDY SPRINGS
COUNTY OF FULTON
STATE OF GEORGIA**

AN ORDINANCE ESTABLISHING SOLID WASTE COLLECTION SERVICES WITHIN THE CITY OF SANDY SPRINGS; PROVIDING FOR THE SCOPE AND NATURE OF THE OPERATION; PROVIDING FOR THE DISPOSAL OF GARBAGE, SOLID WASTE AND REFUSE; PROVIDING PROCEDURES FOR THE HANDLING OF COMPLAINTS; PROVIDING FOR AN INFRASTRUCTURE MAINTENANCE FEE; REQUIRING INDEMNITY INSURANCE; PROVIDING FOR REVOCATION AND AMENDMENT; PROHIBITING ASSIGNMENT AND SUBLETTING OF THE CONTRACT WITHOUT CONSENT; PROVIDING FOR FORFEITURE; AND MAKING OTHER PROVISIONS.

WHEREAS, several companies ("Company") currently operate solid waste services within the corporate city limits pursuant to their contracts with their customers; and

WHEREAS, the City of Sandy Springs ("City") seeks to provide standards of operation, regulation, and oversight in the providing of solid waste services within the corporate city limits; and

WHEREAS, the Sandy Springs City Council, in the interest of conservation and stewardship of community resources, has established a goal of diverting 25% of solid waste from traditional landfills via recycling programs; and

WHEREAS, it is in the interest of the City and its citizens to offer companies currently providing solid waste service a non-exclusive contract on such terms and conditions as will provide the City with the controls and options necessary to provide for the public good.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA, THAT:

Section 1. Definitions.

1.1. For the purpose of this ordinance, whenever inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. Words not defined in this Section 1 or otherwise in this ordinance shall be given their common and ordinary meaning. The following words, terms, phrases and their derivations shall, in this ordinance, have the meaning given in this section.

1.2. "City" means the City of Sandy Springs, Georgia, an incorporated municipal government in Fulton County, State of Georgia. Boundaries defining the City limits may be changed via annexation ordinances approved by the City Council, for which any new boundary created shall be subject to this contract.

1.3. "Company" means any organization, firm, person, entity, corporation or other business that contracts with customers to provide for the collection and disposal of solid waste material as defined in this ordinance, and including but not limited to construction/demolition debris, dead animals, garbage, waste, storm debris, yard trimmings, and recyclable material.

1.4. "Solid Waste" means the collection of residential and commercial non-recyclable waste, residential and commercial recyclable waste, and residential yard trimmings/waste.

1.5. "Approved Container or Approved Bag" or "Container" or "Bag" means those containers used in the collection of solid waste, as defined in this ordinance, which have been approved by the Company for use by both residential and commercial customers.

1.6. "Construction/Demolition Debris" shall have the meaning set forth by the Georgia Department of Natural Resources, Environmental Protection Division (Georgia EPD Chapter 391-3-4.01(14)).

1.7. "Dead Animals" shall mean animals or portions thereof equal to or greater than ten (10) pounds in weight that have died from any cause, except those slaughtered or killed for human use.

1.8. "Effective Date" means any contract executed between the City and any Company on or after January 1, 2006.

1.9. "Term" shall mean a period of one year from the effective date.

1.10. "Environmental Laws" means all applicable laws, directives, rules, ordinances, codes, guidelines, regulations, governmental, administrative or judicial orders or decrees or other legal requirements of any kind, including, without limitation, common law, whether currently in existence or hereafter promulgated, enacted, adopted or amended, relating to safety, preservation or protection of human health and the environment (including ambient air, surface water, groundwater, land, or subsurface strata) and/or relating to the handling, treatment, transportation or disposal of waste, substances or materials, including, without limitation, any matters related to releases and threatened releases of materials and substances.

1.11. "Area" shall mean the area within the boundaries of the incorporated areas of the City of Sandy Springs, as they exist as of the Effective Date in addition to future boundary changes based upon annexations.

1.12. "Garbage" shall have the meaning set forth at Georgia Department of Natural Resources, Environmental Protection Division ("Georgia EPD Chapter 391-3-4-.01(21)).

1.13. "Hazardous Materials" means any pollutant, contaminant, hazardous or toxic substance, constituent or material, including, without limitation, petroleum products and their derivatives, or other substances, regulated under or pursuant to any Environmental Laws. The term Hazardous Materials also includes any pollutant, contaminant, hazardous or toxic substance, constituent or material, including, without limitation, petroleum products and their derivatives, or other substance that is, after the date first written above, deemed hazardous by any judicial or governmental entity, body or agency having jurisdiction to make that determination.

1.14. "Hazardous Waste" means any waste regulated under or pursuant to any Environmental Laws, including, but not limited to, any solid waste which has been defined as a hazardous waste in regulations promulgated by the Board of Natural Resources, Chapter 291-3-11. The term Hazardous Waste also includes Hazardous Materials and any waste that is, after the Effective Date of this Agreement, deemed hazardous by any judicial or governmental entity, board, body or agency having jurisdiction to make that determination. The term "Hazardous Waste" will be construed to have the broader, more encompassing definition where a conflict exists in the definitions employed by two or more governmental entities having concurrent or overlapping jurisdiction over Hazardous Waste.

1.15. "Residential Unit" shall mean any structure, including single family and multi-family dwellings of four units or less, whose primary purpose is for living.

1.15. "Commercial Unit" shall mean any structure, whether free standing or designed to serve multiple tenants, whose primary purpose is for conducting business. For the purpose of this ordinance, this designation shall include those structures designated for multi-family residential with greater than four units.

1.17. "Construction Site" shall mean any parcel of land or real property having land disturbance, clearing & grading, demolition, improvements & betterments, renovation, remodeling and/or new construction work performed thereon or about the real property or premises whether or not a land disturbance and/or building permit is required.

1.18. "Waste" means all perishable and non perishable solid, semi-solid, and liquid wastes, including residential or commercial garbage, trash, refuse, paper, rubbish, ashes, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes.

1.19. "Customer" shall mean any firm, person, entity, corporation or organization that contracts with a Company for the collection and disposal of solid waste material as defined in this ordinance, and including but not limited to construction/demolition debris, dead animals, garbage, waste, storm debris, yard trimmings, and recyclable material.

1.20. "Gross Receipts" shall mean the total amount collected by the Company from any and all Customers for services rendered under authority of this Ordinance as a result of charges for service. Gross receipts shall not include the Infrastructure Maintenance Fee identified in this ordinance.

Section 2. Grant of Non-Exclusive Contract.

The City shall hereby grant to Companies a non-exclusive contract pursuant to the terms set forth herein to use the public streets, alleys, roads and thoroughfares within the City for the purpose of operating and engaging in the business of collecting and disposing of Waste; including, but not limited to, contracting with Customers and providing service pursuant to contract therefore, placing and servicing containers, operating trucks, vehicles and trailers, and such other operations and activity as are customary and/or incidental to such business and service.

It shall be illegal for any company to operate outside the terms of this agreement. Should companies engage in operations that violate this contract, or operate without first notifying the City of acceptance of this contract's terms, said company shall be subject to penalties as outlined in Chapter 1, Article 3 of the Sandy Springs Code of Ordinances.

Section 3. Term.

The term of any agreement shall be for a period of one (1) year beginning on the effective date of the Contract execution and terminating on the first anniversary of said date. The Company shall begin performance under this contract immediately after the effective date of the Contract execution.

Section 4. Scope and Nature of Operation.

4.1. Residential and Commercial Refuse and Waste. The Company may collect and deliver for disposal all residential and commercial refuse and waste accumulated within the corporate limits of the City by the Company's Customers and the words "refuse", "garbage", "trash" and "waste" when used in this Ordinance are used for convenience and, unless the context shows otherwise,

refer residential and commercial refuse and waste. The Company will furnish the personnel and equipment to collect refuse, provide the services described herein, and as contracted for with its Customers, in an efficient and businesslike manner.

4.2. Service Provided-Company shall provide container, bin and other collection service for the collection of residential and commercial refuse and waste according to the individual Customer agreements and applicable City regulations and shall make provision for the special collection of such refuse and waste upon request. The Company shall cause or require its equipment, containers and bins to be kept and maintained in a manner to not cause or create a threat to the public health and shall keep the same in a good state of repair.

4.3. Collection Operation-

a. Collection Times. Save and except as provided in this Section, collection shall not start before 7:00 AM nor continue after 7:00 PM at any location. Operations may only be conducted Monday through Saturday.

b. Variances. Company may request variances to this collection period for properties in which normal collection procedures would cause a clear and present safety hazard. All requests for variances must be submitted to the City Manager, or his designee, and include documentation of the hazard created by the collection operation period.

c. Complaints. Should a collection operation variance be granted and the city receive complaints about the collection operation, the City shall verify and substantiate the factual basis for the complaint. Should the complaints be substantiated, the collection operation variance will be revoked, and the company shall be required to operate within the collection times set forth in subsection a.

4. 4. Holidays- The Company shall observe such holidays as it, in its sole discretion, determines appropriate.

4.5. All Companies must maintain a customer service telephone number while conducting business within the City. The telephone number must be publicly listed in a phone book and available through directory assistance. Each Company providing trash receptacles, whether commercial or residential, must mark each receptacle with the Company's name and telephone number in letters not less than one and a half (1.5) inches in height. Each Company must provide a mechanism to accept, investigate, and respond to customer complaints. Companies are strongly encouraged to use multi-media devices including interactive websites, e-mail, fax, and automated telephone systems. Service calls received by the City as a result of non-Company performance will result in the consideration of

revocation of a non-exclusive contract or the City's choice to not renew an existing agreement.

4.6. Any invoice, bill, statement, or other device intended to request remittance by the customer to the Company of funds for payment of service shall include at a minimum, the Company's telephone number and payment methods available to customers.

4.7. It shall be the Company's obligation and responsibility to educate all Customers on industry trends and best practices relating to solid waste collection, removal, and disposal. Such education programs must consist of the following elements: recycling; holiday schedules; new customer information; and any service related items. All Companies have the obligation to inform Customers of any non-collected trash or items placed for collection by the Customer but not covered under the agreement between the Customer and the Company. Further, it shall be the Company's obligation and responsibility to educate Customers on days of collection for each specific service provided.

Section 5. Vehicles to be Covered and Identified.

All vehicles used by Company for the collection and transportation of refuse shall be covered at all times while loaded and in transit to prevent the blowing or scattering of refuse onto the public streets or properties adjacent thereto, and such vehicles shall be clearly marked with the Company's name and telephone number in letters not less than one and a half (1.5) inches in height.

5.1. Company must provide a comprehensive and proactive driver safety education program which encourages safety on City streets. Such program must be demonstrated and conveyed to the City. Company must comply with all other regulatory agencies, both local, state, or otherwise with respect to commercial vehicle operation within the City. Service calls received by the City as a result of non-Company performance will result in the consideration of revoking a non-exclusive contract or the City's choice to not renew an existing agreement.

5.2. Company must manage collection services delivered within the City to minimize the number of vehicles on City roads. Coordination between haulers and service providers is strongly encouraged to manage service vehicles on residential streets and neighborhoods. Companies may provide a discounted rate for neighborhood or area collection programs in order to promote the reduction of collection vehicles on City streets.

5.3. Should Company utilize "Scout" trucks to facilitate collection in residential areas where it is not feasible to use standard collection vehicles, such vehicles must be covered at all times while loaded and in transit should they exceed 30 miles per hour or be driven more than 200 yards on a public street.

Section 6. Regulation of Containers.

The Company may rent, lease, provide or define specifications for containers to any customer within the corporate limits of the City for refuse storage and collection purposes subject to the following requirements:

- 6.1. All containers shall be constructed and maintained according to industry practice;
- 6.2. All containers shall be equipped with stable covers to prevent blowing or scattering of refuse while being transported for disposal of their contents.
- 6.3. All containers, save and except those being used for the purpose of collecting and storing rubble, building and scrap construction materials, shall be equipped with covers suitable to prevent blowing or scattering refuse and access to the container by animals while the container is at the site designated by Customer.
- 6.4. All containers shall be periodically cleaned, maintained, serviced and kept in a reasonably good state of repair, to prevent the unreasonable accumulation of refuse residues, to avoid excessive odor and harborage for rodents and flies resulting from excessive residues remaining after collection of containers.
- 6.5. All containers shall be clearly marked with the Company's name and telephone number in letters not less than one and a half (1.5) inches in height.
- 6.6. All containers shall not be on public rights of way and shall be located so as to not interfere, block, obstruct or impede the normal use of any sidewalk, street, alley driveway or fire lane, or to block, obstruct or impede sight distance at street, road or alley intersections.
- 6.7. All containers, bins, or other collection instruments must be kept free from graffiti, rust, broken and non-operational parts and pieces, and litter in and around the area.
- 6.8. It shall be the responsibility of each Company to educate their Customers on the regulations of containers and maintain industry standards, policies, and procedures, which promote an aesthetically pleasing environment in and around all refuse and waste containers and receptacles.

Section 7. Disposal of Refuse.

The Company will deliver all refuse and waste collected from its customers within the City, except for materials which the Company may select for recovery and recycling, to a disposal facility that is permitted by the EPD to accept such refuse and waste. Rules and regulations governing hours of operation and disposal practices at the disposal facility will be observed and followed by the Company while engaged in the disposal of refuse

pursuant to this Ordinance. Any items collected as part of a recycling program shall be delivered to a facility where recovery and reuse occurs.

Should any company choose to offload or dispose of materials collected by one vehicle into another for transport to the final disposal facility, Company should make every available effort to perform such refuse transfer on property owned by the Company or privately owned property where the Company has an agreement with the property owner to perform such activity. In the event any transfer occurs on public land, including streets, alleys, rights-of-ways, roads, thoroughfares, avenues, parkways, expressways, or other areas designed and designated for public travel, Company shall make every effort available to clean the area after completion of the transfer to insure the area is maintained at the same or better level than if the area was not be used for this activity.

Section 8. Contract and Rental Fees.

The streets, rights-of-way, and public easements to be used by the Company in the operation of its business within the boundaries of the City as such boundaries now exist and exist from time to time during the term of this contract, are valuable public properties acquired and maintained by the City at great expense to its taxpayers, and the City will incur costs to regulate and administer this Ordinance. In consideration of such benefits, costs and expenses, the Company shall through the term of its Contract collect an "Infrastructure Maintenance Fee" equal to 5% of the Company's gross receipts to Customers within the City (exclusive of Sales Tax).

8.1. Fees Paid- The Infrastructure Maintenance Fee shall be payable quarterly to the City and delivered to the City in function together with a statement indicating the derivation and calculation of such payment. Each such quarterly payment shall be due on the 15th day of the second month following the end of the quarterly period for which said payment is due. The quarterly payments shall be due on February 15, May 15, August 15, and November 15 of each year during the term hereof, with the February 15 payment being based upon the Company's gross receipts during the calendar quarter ending the prior December 31 and being payment for the rights and privileges granted hereunder for said calendar quarter, the May 15 payment being based upon the Company's gross receipts during the calendar quarter ending the prior March 31 and being payment for the rights and privileges granted hereunder for said calendar quarter, the August 15 payment being based upon the Company's gross receipts during the calendar quarter ending the prior June 30 and being payment for the rights and privileges granted hereunder for said calendar quarter, and the November 15 payment being based upon the Company's gross receipts during the calendar quarter ending the prior September 30 and being payment for the rights and privileges granted hereunder for said calendar quarter. All bills generated by Companies after May 1, 2006 shall include the Infrastructure Maintenance Fee. The City shall provide material relating to the education and marketing efforts of the Infrastructure Maintenance Fee as well as provide education and training to Company employees to ensure a consistent message is conveyed to constituents of the City of Sandy Springs. For

purposes of verifying the amount of such fee, the books of the Company shall at all reasonable times be subject to inspection by the duly authorized representatives of the City.

8.2. Credit for Fees Paid- Should the City not have the legal power to agree that the payment of the foregoing sums of money shall be in lieu of contracts, fees, street or alley rentals or charges, easement or ordinance fees or charges aforesaid, then City agrees that it will apply so much of said sums of money paid as may be necessary to Company's obligations, if any, to pay any such contract, ordinance charges, other charges, fees, rentals, easement, taxes or charges.

8.3. Reporting – Any Company providing service pursuant to this Ordinance or a resulting Contract shall from time to time provide the City with the necessary statistics regarding waste collected and disposed which shall allow the City to comply with State reporting requirements. Such information shall be in the manner and format requested by the City and provide adequate details for the City to maintain compliance with local, state, federal, and all other guidelines relating to solid waste collection, removal, and disposal.

8.4. Dedicated Revenue – The Infrastructure Maintenance Fee collected by the City under this ordinance shall be dedicated to the following: (i) maintenance of the City's streets, corridors, alleys, thoroughfares, and transportation routes; (ii) administration of contract compliance between Customers and Companies where service is received as provided in this Ordinance; and (iii) collection of litter and trash within the City.

Section 9. Compliance with Law.

The Company shall conduct under this Ordinance in compliance with the material provisions of all applicable local, state and federal laws, rules and regulations, and with the general specifications contained in this Ordinance.

Section 10. Insurance Provided by Company.

10.1. Minimum Coverage Requirements- The Company shall maintain throughout the term of its Contract, property damage coverage, general liability insurance, and automobile liability insurance for any automobile owned or operated by Company, with an insurance company authorized and licensed to do business in the State of Georgia and acceptable to the City, insuring against claims for liability and damages for the benefit of the City. The insurance shall include the City as an additional insured. Property damage coverage insurance under this section shall be a minimum of Five Hundred Thousand and No/100 Dollars (\$500,000). Automobile liability insurance under this section shall, at a minimum, have limits of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000) for bodily injury for each person, and Five Hundred Thousand and No/100 Dollars (\$500,000) for each occurrence, and property damage of Two Hundred Fifty thousand and No/100 Dollars (\$250,000) for each occurrence and

general liability insurance under this section shall be a minimum of Five Hundred Thousand and No/100 (\$500,000) for the protection of the public in connection with:

10.1.1. Property Damage- Liability to persons or damages to property, in any way arising out of or through the acts or omissions of Company, its servants, agents or employees or to which Company's negligence shall in any way contribute;

10.1.2. Miscellaneous- Arising out of any claim or invasion of the right of privacy, for defamation of any person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation;

10.1.3. Contractors- Arising out of Company's operations and relationships with any independent contractor or subcontractor.

10.2. Employer's Liability- If the Company is required by Georgia Statute, the Company shall maintain throughout the term of the Contract resulting from this Ordinance the requisite statutory workers' compensation insurance, and a minimum of One Hundred Thousand and No/100 Dollars (\$100,000) employer's liability insurance. Company shall be required to show compliance to this section by submitting documentation of such coverage from an approve carrier licenses in the State of Georgia, or documentation explaining the exemption from employer's liability insurance should they not meet the state requirements to carry such coverage.

10.3. Certificate of Insurance- The insurance policy, or policies, obtained by the Company in compliance with this section shall be approved by the City Manager or his designee at their reasonable discretion, and the certificate of insurance for the insurance policy shall be filed and maintained with the City during the term of the Contract resulting from this Ordinance with a copy of the endorsement required under Section 10.4 to be attached or made a part of such certificate.

10.4. Endorsements- All insurance policies maintained pursuant to this Ordinance shall contain the following conditions by endorsement:

10.4.1. Additional Insured- The City shall be an additional insured and the term "owner" and "City" shall include all authorities, Boards, Bureaus, Commissions, Divisions, Departments and offices of the City and the individual members, officers, employees and agents thereof in their official capacities and/or while acting on behalf of the City.

10.4.2. Other Insurance Clause- The policy clause "Other Insurance" shall not apply to the City when the City is an insured on the policy;

10.4.3. No Recourse- Companies issuing the insurance policies shall not recourse against the City for payment of any premium or assessment.

10.5. Increase Requirements-The City may chose to amend this Ordinance to make reasonable adjustments to the insurance coverage and their limits when deemed necessary and prudent based upon changes in statutory law, court decisions, or the claims history of the industry.

Section 11. Indemnification and Hold Harmless.

The Company agrees to indemnify, defend and save harmless the City, its agents, officers and employees, against and from any and all claims by or on behalf of any person, firm, corporation or other entity arising from any negligent act or omission or willful misconduct of the Company, or any of its agents, contractors, servants, employees or contractors, and from and against all costs, counsel fees, expenses and liabilities incurred in or about any such claim or proceeding brought thereon. Promptly after receipt from any third party by City of a written notice of any demand, claim or circumstance that, immediately or with the lapse of time, would give rise to a claim or the commencement (or threatened commencement) of any action, proceeding or investigation (an "Asserted Claim") that may result in losses for which indemnification may be sought hereunder, the City shall give written notice thereof (the "Claims Notice") to the Company provided, however, that a failure to give such notice shall not prejudice the City's right to indemnification hereunder except to the extent that the Company is actually and materially prejudiced thereby. The Claims Notice shall describe the Asserted Claim in reasonable detail, and shall indicate the amount (estimated, if necessary) of the losses that have been or may be suffered by the City when such information is available. The Company may elect to compromise or defend, at its own expense and by its own counsel, any Asserted Claim. If the Company elects to compromise or defend such Asserted Claim, it shall, within twenty (20) business days following its receipt of the Claims Notice (or sooner, if the nature of the Asserted Claim so required) notify the City of its intent to do so, and the City shall cooperate, at the expense of the Company, in the compromise of, or defense against, such Asserted Claim. If the Company elects not to compromise or defend the Asserted Claim, fails to notify the City of its election as herein provided or contests its obligation to provide indemnification under this Agreement, the City may pay, compromise or defend such Asserted Claim with all reasonable costs and expenses borne by the Company. Notwithstanding the foregoing, neither the Company nor the City may settle or compromise any claim without the consent of the other party; provided, however, that such consent to settlement or compromise shall not be unreasonably withheld. In any event, the City and the Company may participate at their own expense, in the defense of such Asserted Claim: If the Company chooses to defend any Asserted Claim, the City shall make available to the Company any books, records or other documents within its control that are necessary or appropriate for such defense.

Section 12. Forfeiture and Terminating of Contract.

12.1. Material Breach- In addition to all other rights and powers retained by the City under this Ordinance or otherwise, the City reserves the right to declare any resulting Contract from this Ordinance forfeited and to terminate the Contract and all rights and privileges of the Company hereunder in the event of a material breach of the terms and conditions hereof. A material breach by Company shall include, but shall not be limited to, the following:

12.1.1 Fees- Failure to pay the fees set out in Section 8;

12.1.2 Telephone Listings- Failure to keep and maintain a telephone listing and office or answering service that is available by phone without long distance charge during regular business hours for service to the public, and which telephone or office shall, at minimum, provide and maintain the following services:

(a) Coordinate and provide information concerning deposits, payments and accounts to Customers and prospective Customers;

(b) Respond to Customer and prospective Customer questions and issues about billings, accounts, deposits and services;

(c) Coordination with the City with respect to private sector and public works projects and issues related to or affecting the Company's operation; and

(d) Immediate response, upon request, to police, fire and other emergency situations in which the public health and safety requires action with respect to or assistance regarding Company's property.

12.1.3. Failure to Provide Service- Failure to materially provide the services provided for in this Ordinance within six (6) months of execution of this contract;

12.1.4. Misrepresentation- Material misrepresentation of fact in the application for or negotiation of any contract resulting from this Ordinance; or

12.1.5. Conviction- Conviction of any director, officer, employee, or agent of the Company of the offense of bribery or fraud connected with or resulting from the award of a contract from this Ordinance.

12.2. Operation Information- Material misrepresentation of fact knowingly made to the City with respect to or regarding Company's operations, management, revenues, services or reports required pursuant to this Ordinance.

12.3. Economic Hardship- Company shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

12.4. Forfeiture and Proceedings- Any unwarranted and intentional neglect, failure or refusal of the Company to comply with any material provision of this Ordinance or resulting Contract within thirty (30) days after written notice from City setting forth the specific provision and noncompliance, said notice to be mailed to Company at its principal place of business by certified mail, return receipt requested, shall be deemed a breach of this Ordinance, and the City Council, upon notice to Company and hearing, may, for good cause declare a Contract forfeited and exclude Company from further use of the streets of the City under this Ordinance, and the Company shall thereupon surrender all rights in and under this Ordinance and Contract.

12.4.1. Proceedings- In order for the City to declare a forfeiture pursuant to Sections 12.1, 12.4, or 12.4.3, the City shall make a written demand that the Company comply with any such provision, rule, order, or determination under or pursuant to this Ordinance. If such violation by the Company continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the Council may take under consideration the issue of termination of the resulting Contract from this Ordinance. The City shall cause to be served upon Company, at least twenty (20) days prior to the date of such a Council meeting, a written notice of intent to request such termination and the time and place of the meeting. Notice shall be given of the meeting and issue which the Council is to consider.

12.4.2. Hearing - The Council shall hear and consider the issue, hear any person interested therein, and shall determine whether or not any violation by the Company has occurred.

12.4.3. Forfeiture- If the Council shall determine that the violation by the Company was the fault of Company and within its control, the Council may declare the contract forfeited and terminated, or the Council may grant to Company a period of time for compliance.

Section 13. Transfer, Sale or Conveyance by Company.

The Company shall not transfer, assign, sell or convey any rights granted under any resulting Contract from this Ordinance without the prior approval of the Council expressed by ordinance; provided that this section shall not apply to vehicles, replacements, maintenance, upgrades or modifications of equipment, machinery, containers and buildings by Company for the purpose of maintaining and continuing its

operation within the City; and provided further that Company may, in its sole discretion and upon written notice to the City, transfer, assign, sell or convey this Ordinance to a wholly owned subsidiary of the Company or to an affiliated entity that is under common control with Company (i.e. has a common parent entity).

Section 14. Foreclosure.

Upon the foreclosure or other judicial sale of all or a substantial part of the assets and property of the Company used for and dedicated to providing service pursuant to this Ordinance, the Company shall notify the City of such fact, and such notification shall be treated as a notification that a change in control of the Company has taken place and the provisions of this Ordinance governing the consent of the Council to such change in control of the Company shall apply. Upon the foreclosure or judicial sale, or the leasing of all or a substantial part of the property and assets of the Company dedicated to and used for the purposes of providing service pursuant to this Ordinance, without the prior approval of the Council, the Council may, upon hearing and notice, terminate any Contract resulting from this Ordinance.

Section 15. Receivership and Bankruptcy.

15.1. Cancellation Option - The Council shall have the right to cancel any Contract resulting from this Ordinance one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of the Company, whether in receivership, reorganization, bankruptcy, other action or proceeding, whether voluntary or involuntary, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, unless:

15.1.1. Trustee Compliance- Within one hundred twenty (120) days after his election or appointment, such receiver trustee shall have fully complied with all the provisions of this Ordinance and remedied all defaults thereunder; or

15.1.2. Trustee Agreement- Such receiver or trustee, within one hundred twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction, whereby the receiver or trustee assumes and agrees to be bound by each and every provision of this Ordinance granted to the Company.

Section 16. Retention of City Police Powers.

The City retains and reserves all of its police powers and the rights, privileges, and immunities that it now has under the law to regulate, patrol and police the streets and public ways within the City, and the granting of any Contract as a result of this Ordinance shall in no way interfere with the improvements to, or maintenance of, any street, alley or public way, and the rights of the City to use said streets, alleys and public ways.

Section 17. Amendments of City Ordinances and Regulations.

The City reserves the right and power, pursuant to its police power, after due notice to Company, to modify, amend, alter, change or eliminate any rules, regulations, fees, charges and rates of the City, and to impose such additional conditions, that are not inconsistent with the rights granted by this Ordinance, upon the Company and all persons, firms or entities of the same class as the Company, as may be reasonably necessary in the discretion of the City Council to preserve and protect the public, health, safety and welfare and/or insure adequate service to the public.

Section 18. Taxes.

The Company shall promptly pay all lawful ad valorem taxes, levies and assessments, if any, that are imposed upon the Company. Absent an administrative or judicial challenge, or appeal, the failure to pay any such tax, levy or assessment shall be a breach of this Ordinance.

Section 19. Public Necessity.

The Council hereby finds and declares that the public welfare, convenience and necessity require the service which is to be furnished by the Company.

Section 20. Solvability.

If any section, paragraph, subdivision, clause, part or provision hereof shall be adjudged invalid or unconstitutional the same shall not affect the validity hereof as a whole or any part or provision other than the part or parts held invalid or unconstitutional.

Section 21. Captions and Headings.

The use of captions or headings for the various sections of this Ordinance are for convenience of parties only and do not reflect the intent of the parties. The rule of interpretation to solve ambiguities in a contract against the party drafting such contract shall not apply to this Ordinance.

Section 22. No Suspension of Laws.

All provisions of the ordinances of the City as now existing or as may be amended from time to time, and all provisions of the statutes of the State of Georgia applicable to general law cities shall be a part of any resulting contract from this Ordinance as fully as if the same had been expressly stated herein, and said the City retains and may exercise all of the governmental and police powers and all other rights and powers not directly inconsistent with the terms, conditions and provisions of this Ordinance.

Section 23. Peaceful Employment.

From and after the effective date of this ordinance, the City and the Company shall be and are hereby authorized and entitled to act in reliance upon the terms, conditions and provisions of this Ordinance and any resulting Contract and, subject thereto, the

Company shall collect rates for service, operate and conduct its business and work within the City, and enjoy the benefits and privileges of this Ordinance during the term hereof.

Section 24. Open Meetings.

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public, and public notice of the time, place, and purpose of said meeting was given, as required by the Open Meetings Act, Georgia Government Code.

Section 25. Endorsements and Records.

The City Clerk is directed to make endorsements as appropriate over his/her official hand and the seal of the City on the form provided at the conclusion of this Ordinance, for the public record and convenience of the citizens, of the date upon which this Ordinance is finally passed and adopted.

Section 26. Acceptance by Company.

Within thirty (30) days after the passage of this Ordinance, or within thirty (30) days of establishing a business within the corporate City limits, all Companies operating a Residential or Commercial Refuse Waste service shall file with the City its acceptance of the terms and provisions of this Ordinance, and request for Contract. The acceptance and request for Contract shall be in writing on the Company's letterhead and provide as follows:

City of Sandy Springs
Attention: City
Manager; 7840
Roswell Road, Suite 550
Sandy Springs, GA
30350;

_____ (the "Company"), acting by and through an officer who is acting within its official capacity and authority, hereby accepts this Ordinance to operate a refuse and solid waste collection and disposal system within the City as said Ordinance is set forth and provided herewith. The Company agrees to be bound and governed by each term, provision and condition of the Ordinance, to accept and to give the benefits provided by the Ordinance, and to perform each service and duty set forth and provided for in the Ordinance in a businesslike and reasonable manner and in compliance with the Ordinance.

Company:

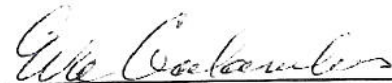
By: _____

Printed Name: _____

Title: _____


PASSED AND APPROVED on first reading this 20th day of February, 2007.

Approved:



Eva Galambos, Mayor

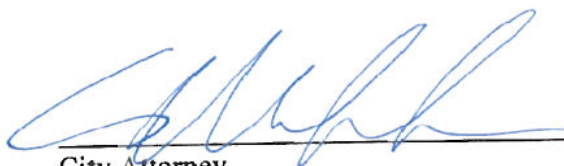
Attest:



Christina Rowland, City Clerk
(Seal)



Approved as to Form and Content:



City Attorney